

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

9

DECISION

TOPIC

**Notice of Intended Action - Chapter 64 --- Wastewater Construction and
Operation Permits**

The Commission is asked to approve the attached Notice of Intended Action to amend Chapter 64: Wastewater Construction and Operation Permits of the Iowa Administrative Code (IAC).

These proposed rules renew the general permits for storm water discharges for another five years. According to statute, general permits issued by the Department must be renewed at least every five years. The general permits expire 10/1/07.

The following changes are proposed:

- Renew general permits Nos. 1, 2 and 3 to be effective 10/1/07 until 10/1/12.
- Maintain current fee structure.
- Add notification requirements when permitting responsibility has been transferred.
- Prohibit commencement of construction activity until a permit authorization has been approved by the Department.

Charles C. Corell, Bureau Chief
Water Quality Bureau
Environmental Services Division

January 12, 2007

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.105(3), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 567-64, “Wastewater Construction and Operation Permits”, Iowa Administrative Code.

Amendments to Chapter 64 reissue General Permits Nos. 1, 2 and 3 which authorize the discharge of storm water. General Permits 1 and 2 were issued in 1992 for a five-year duration, reissued in 1997 and again in 2002 for additional five-year periods and expire October 1, 2007. General Permit No. 3 was issued in 1997 for a five-year duration, reissued in 2002 for an additional five-year period and expires October 1, 2007. This action will renew all three, extending their coverage another five years to October 1, 2012. General permits for storm water discharges are required to be adopted as rules and are effective for no more than five years as specified in the Code of Iowa. Also, the stipulation that storm water discharge may commence 24 hours after the applicant submitted Notice of Intent for Coverage has been removed and replaced with a requirement that discharge cannot commence until the discharge authorization has been issued by the Department.

Copies of the proposed revised General Permit Nos. 1, 2 and 3 are available upon request from the Department at the address or telephone number below.

These amendments to Chapter 64 also add a provision to subrule 64.6(6) which requires compliance responsibility transfers to be sent to the Department. Since 1999, land developers have been required to notify the Department when responsibility for compliance with the terms of General Permit no. 2 has been contractually transferred to those who have purchased lots within residential or commercial developments. These amendments allow the seller of the lots to

transfer responsibility for maintaining permit coverage to the buyer of the lots. The reference to the minimum area required to be permitted is also being changed from five acres to one acre to reflect current federal and state regulation requirements. These amendments also remove the requirement that a Notice of Intent be submitted 24 hours prior to the date operation is to begin and remove the automatic authorization of storm water discharge upon submittal of a complete Notice of Intent.

The fee structure of the current permits has been retained.

It is not the intent of the Department that the textual changes in the general permits be adopted in the Iowa Administrative Code (IAC) but that these changes be made in the general permits themselves which are adopted by reference into the IAC.

Any interested party may make written comments on the proposed amendments on or before March 30, 2007. Written comments should be directed to Joe Griffin, Storm Water Coordinator, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895. People who wish to convey their views orally should contact Mr. Joe Griffin, at (515)281-7017 or at the Department's offices on the fifth floor of the Wallace State Office Building.

A public hearing will be held on March 30, 2007, at 9:00 a.m. in the Fifth Floor Conference Room of the Wallace State Office Building, at which time comments may be presented orally or submitted in writing.

Anyone who plans to attend the public hearing and has special requirements such as hearing or mobility impairments should contact Mr. Griffin and advise of the special needs.

These amendments are intended to implement Iowa Code chapter 455B, division I.

The following amendments are proposed.

ITEM1. Amend subparagraph 64.3(4)b.(4) as follows:

64.3(4)b.(4) For storm water discharge associated with industrial activity which initiates operation after October 1, 1992, with the exception of discharges identified in subparagraphs (2) and (3) of this paragraph, ~~at least 24 hours prior to the date operation is scheduled to begin where~~ storm water discharge associated with industrial activity could occur as defined in rule 567---60.2.

ITEM 2. Amend subrule 64.6(2) as follows:

64.6(2) *Authorization to discharge under a general permit.* Upon the submittal of a complete Notice of Intent in accordance with 64.6(1) and 64.3(4)“b,” the applicant is authorized to discharge, ~~unless notified by the department to the contrary~~ after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567---Chapter 64. The discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992. The applicant will receive notification by the department of coverage under the general permit. If any of these items required for filing a Notice of Intent specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items.

ITEM 3. Amend subrule 64.6(6) as follows:

64.6(6) *Transfer of ownership – construction activity part of a larger common plan of development.* For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in the event a permittee transfers ownership of all or any part of property subject to NPDES General Permit no. 2, both the permittee and transferee shall be responsible for compliance with the provisions of the general permit for that portion of the project which has been transferred, including when the transferred

property is less than ~~five~~one acres in area, from and after the date the department receives written notice of the transfer, provided that:

- a. The transferee is notified in writing of the existence and location of the general permit and pollution prevention plan, and of the transferee's duty to comply and proof of such notice is included with the notice to the department of the transfer.
- b. If the transferee agrees, in writing, to become the sole responsible permittee for the property which has been transferred, then the transferee shall be solely responsible for compliance with the provisions of the general permit for the transferred property from and after the date the department receives written notice of the transferee's assumption of responsibility.
- c. If the transferee agrees, in writing, to obtain coverage under the NPDES General Permit no. 2 for the property which has been transferred, then the transferee is required to obtain coverage under the NPDES General Permit no. 2 for the transferred property from and after the date the department receives written notice of the transferee's assumption of responsibility for permit coverage. After the transferee has agreed, in writing, to obtain coverage under the NPDES General Permit no. 2 for the transferred property and the department has received written notice of the transferee's assumption of responsibility for permit coverage for the transferred property, the authorization issued under the NPDES General Permit no. 2 to the transferor for the transferred property shall be considered by the department as not providing NPDES permit coverage for the transferred property.
- d. All notices sent to the department as described in this subrule shall contain the name of the development as submitted to the department in the original Notice of Intent as modified by subsequent written notices of name changes submitted to the department, the authorization number assigned to the authorization by the department, the legal

description of the transferred property including lot number, if any, and any other information necessary to precisely locate the transferred property and to establish the legality of the document.

ITEM 4. Amend subrules 567--64.15(1), 64.15(2) and 64.15(3) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective October 1, 200~~2~~7 to October 1, 200~~7~~12.

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 200~~2~~7 to October 1, 200~~7~~12.

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants and Rock Crushing Plants, NPDES General Permit No. 3, effective October 1, 200~~2~~7 to October 1, 200~~7~~12.

Date

Rich Leopold, Director